

Docket No. 12-2302-01

Exhibit 1

Brett N. Anderson
Kristy L. Bertelsen
Michael D. Blackburn
Mark D. Dean
Michael E. Dyer
Sharon J. Eblen
Bret A. Gardner
Bryce D. Panzer
Dori K. Petersen
Kira M. Slawson
Stanley K. Stoll
Thomas C. Sturdy
Scott R. Taylor

BLACKBURN & STOLL, LC
Attorneys at Law
257 East 200 South, Suite 800
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84111-2142

Telephone (801) 521-7900
Fax (801) 521-7965

Kira M. Slawson
Direct Phone (801) 578-3578
Direct Fax (801) 578-3579
kslawson@blackburn-stoll.com

March 28, 2012

VIA OVERNIGHT MAIL

8x8, Incorporated
810 W. Maude Avenue
Sunnyvale, CA 94085

Joshua McFadden
9203 Granada Hills
West Jordan UT 84088

Re: Cease and Desist

Dear Sir:

We represent Utah Rural Telecom Association ("URTA") which is an association of the rural telephone companies in Utah including Strata Networks, Emery Telcom, South Central Utah Telephone Association, Manti Telephone Company, Gunnison Telephone Company, All West Communications, Union Telephone Company, CentraCom and Direct Communications – Cedar Valley (collectively, the "Rural Telecom Companies"). It has come to our attention that 8x8, Incorporated ("8x8") is providing, or proposes to provide, local exchange services or other public telecommunications services in the State of Utah in areas served by the Rural Telecom Companies, including rural exchanges with fewer than 5,000 access lines.

Local exchange service under Utah law is defined as the provision of telephone lines to customers with the associated transmission of two-way interactive, switched voice communication with the geographic area encompassing one or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission. UCA §54-8b-2(10). Public telecommunications service is defined as the two-way transmission of signs, signals, writing, images, sounds, messages or other electromagnetic means offered to the public generally. UCA §54-8b-2(16).

Prior to providing local exchange service or other public telecommunications services in the State of Utah, you are required to obtain a Certificate of Public Convenience and Necessity from the Public Service Commission ("CPCN"). 8x8 does not have a CPCN, and thus, is not authorized to provide public telecommunications or local exchange services in the State of Utah

generally, and in the smaller rural exchanges specifically. However, it is our understanding that 8x8 is currently providing, or proposes to provide, managed VoIP services in Utah. The Utah Public Service Commission has previously determined that VoIP service is a public telecommunications service under Utah law, and as such, is subject to the requirements of UCA §54-8b-2.1.

Additionally, please be aware that the Rural Telecom Companies will not mutually exchange local traffic, i.e., terminate local traffic originated by customers of 8x8 to customers of the Rural Telecom Companies nor originate local traffic from its customers to 8x8 customers, without a local interconnection agreement or agreement to mutually exchange traffic pursuant to which applicable VoIP- PSTN and PSTN-VoIP reciprocal compensation charges are required.

Finally, it is our understanding that in some circumstances, 8x8 provides its service through the inappropriate use of wireless telephone numbers whereby the end user business customer ports a landline telephone number to a wireless provider, and 8x8 subsequently uses the wireless number to transit what is essentially landline to landline traffic. This is an improper use of the wireless number to avoid paying appropriate VoIP to PSTN and PSTN to VoIP reciprocal compensation to the local exchange carrier.

Accordingly, demand is hereby made, on behalf of the Utah Rural Telecom Association, and the Rural Telecom Companies, that 8x8 cease and desist providing, or proposing to provide, public telecommunications and local exchange services immediately. Please provide a response to this letter within ten (10) days, or URTA and the Rural Telecom Companies will file a Motion for Order to Show Cause with the Utah Public Service Commission against 8x8 Incorporated.

Sincerely,

BLACKBURN & STOLL, LC



Kira M. Slawson
Attorneys for Utah Rural Telecom Association

cc: URTA member companies

Docket No. 12-2302-01

Exhibit 2



State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THAD LEVAR
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

GARY HERBERT,
Governor

GREG BELL
Lieutenant Governor

MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Ron Slusher, Utility Technical Consultant

Date: August 16, 2012

Re: In the Matter of the Request for Agency Action of Carbon/Emery Telcom, Inc., v. 8 x 8, Incorporated. Docket No. 12-2302-01.

RECOMMENDATION:

The Division has reviewed the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated and is requesting that the Commission establish a date for a technical conference for this docket to further educate the parties on the nature of the services being offered.

cc: Kira M. Slawson, Attorney for Carbon/Emery, Blackburn & Stoll, LC
Joshua McFadden, 8x8 Incorporated
Justin Jetter, Assistant Attorney General, State of Utah
Patricia Schmid, Assistant Attorney General, State of Utah
Eric Orton, Utility Analyst, Office of Consumer Services, State of Utah

Docket No. 12-2302-01

Exhibit 3

Kira Slawson

From: Melanie Reif <mreif@utah.gov>
Sent: Thursday, August 30, 2012 3:56 PM
To: Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Subject: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

Counsel,

The Commission would like to schedule a technical conference in the above docket. How does Thursday, September 13, 2012, at 9:00 a.m. look for your schedules?

Does anyone have an email address for 8 x 8?

Thank you,

Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

Docket No. 12-2302-01

Exhibit 4

Kira Slawson


From: Kira Slawson
Sent: Thursday, August 30, 2012 4:00 PM
To: 'Melanie Reif'; Justin Jetter; Paul Proctor; Patricia Schmid
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

I am checking with my client about the 13th. I don't have an email address for 8x8. It is possible that the customer to whom 8x8 is providing service has an email address for 8x8. Please let me know if you would like the name of the customer in Price who is receiving services from 8x8.

I'll get back to you on the date shortly.

Kira M. Slawson
Blackburn & Stoll, LC
257 East 200 South, Suite 800
Salt Lake City, UT 84111-2048
Phone: (801) 578-3578
Fax: (801) 578-3579

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 Please consider the natural environment before printing this email message.

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Administrative Law Judge and Legal Counsel

Docket No. 12-2302-01

Exhibit 5

Kira Slawson

From: Melanie Reif <mreif@utah.gov>
Sent: Thursday, August 30, 2012 4:06 PM
To: bmartin@8x8.com; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

This message includes 8 x 8's CEO, Bryan Martin. Please be sure to include this additional email in your responses. Thank you.


>>> "Kira Slawson" <KiraM@blackburn-stoll.com> 8/30/2012 4:00 PM >>>

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Administrative Law Judge and Legal Counsel
Utah Public Service Commission

Docket No. 12-2302-01

Exhibit 6

Kira Slawson

From: Melanie Reif <mreif@utah.gov>
Sent: Friday, August 31, 2012 9:01 AM
To: bmartin@8x8.com; Bryan Martin; Ronald W. Jr. Del Sesto; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Cc: Cheryl Murray; Eric Orton; Michele Beck
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

Counsel,

Please communicate amongst yourselves and propose alternative dates and times that will work for you.

Thank you.

Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

>>> Paul Proctor 8/31/2012 7:51 AM >>>
I am not available on September 13.
Paul H. Proctor
AAG

>>> Bryan Martin <bryan.martin@8x8.com> 8/30/2012 4:40 PM >>>

Thank you, Melanie. Also please include Ronald Del Sesto, 8x8's Regulatory Counsel (also included above), on future correspondence in this matter. Please note our new postal mailing address below. - Bryan

Bryan R. Martin
Chairman & Chief Executive Officer

8x8, Inc. (Nasdaq: EGHT)
T 408.654.0867 (8x8 Virtual Office)
F 408.980.0432
bmartin@8x8.com
2125 O'Nel Drive
San Jose, California 95131

1-866-TRY-VOIP

From: Melanie Reif [<mailto:mreif@utah.gov>]
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To: bmartin@8x8.com; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
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This message includes 8 x 8's CEO, Bryan Martin. Please be sure to include this additional email in your responses. Thank you.


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Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

Docket No. 12-2302-01

Exhibit 7

Kira Slawson

From: Del Sesto, Ronald W., Jr. <r.delsesto@bingham.com>
Sent: Friday, August 31, 2012 12:08 PM
To: Melanie Reif
Cc: Kira Slawson; Paul Proctor; Cheryl Murray; Justin Jetter; Eric Orton; Michele Beck; Patricia Schmid
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telecom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01
Attachments: Vonage Order.pdf

Ms. Reif,

Thank you for your email. At this time, we believe it would be premature to schedule a technical conference as we cannot identify the customer about which Carbon/Emery Telecom, Inc. complains. Specifically, we have not been provided sufficient detail to locate the alleged customer located in Price, Carbon County, Utah. It may be the case that Carbon/Emery Telecom, Inc. has wrongly identified the customer as one of 8x8's. Without additional information from Carbon/Emery Telecom, Inc., we cannot provide meaningful input to a technical conference.

It is also important to note that 8x8 provides exclusively nomadic, interconnected VoIP services. The Federal Communication Commission has specifically preempted state regulation of such services in the *Vonage Order* attached to this email. Moreover, it appears that state law provides for a deregulatory scheme for all offerings of Internet protocol-enabled services. See Utah Code Ann. § 54-19-103. Specifically, the statute provides in relevant part "A state agency and political subdivision of the state may not, directly or indirectly, regulate Internet protocol-enabled service or voice over Internet protocol service. *Id.* at § 54-19-103(1).

The complainant did not address the serious jurisdictional questions raised by both the *Vonage Order* and relevant state law. At this point in time, we would recommend that Carbon/Emery Telecom, Inc. voluntarily withdraw its complaint and re-file when it can: (1) identify the specific customer that forms the basis of their complaint so that 8x8 can determine whether in fact it is a customer of the company; and (2) explain how the Commission has jurisdiction and has the legal authority to require a provider of nomadic interconnected VoIP services to obtain a certificate when both federal and state law prohibit the imposition of market entry requirements.

Respectfully,

Ronald W. Del Sesto, Jr. counsel for 8x8, Inc.

Print Less → Go Green

Ronald W. Del Sesto, Jr.
Partner
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C 202.360.6262
F 202.373.6421
r.delsesto@bingham.com
B I N G H A M
Bingham McCutchen LLP

2020 K Street NW
Washington, DC 20006-1806

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I am not available on September 13.
Paul H. Proctor
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Thank you, Melanie. Also please include Ronald Del Sesto, 8x8's Regulatory Counsel (also included above), on future correspondence in this matter. Please note our new postal mailing address below. -
Bryan

Bryan R. Martin
Chairman & Chief Executive Officer

8x8, Inc. (Nasdaq: EGHT)
T 408.654.0867 (8x8 Virtual Office)
F 408.980.0432
bmartin@8x8.com
2125 O'Nel Drive
San Jose, California 95131

1-866-TRY-VOIP

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Utah Public Service Commission

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Docket No. 12-2302-01

Exhibit 8

Kira Slawson

From: Melanie Reif <mreif@utah.gov>
Sent: Tuesday, September 04, 2012 12:17 PM
To: r.delsesto@bingham.com; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Cc: bryan.martin@8x8.com; Eric Orton; Michele Beck; William Duncan
Subject: In the Matter of Request for Agency Action of Carbon/Emery Telcom, Inc. v. 8 x 8, Inc.

Counsel,

At this time, please be advised that a technical conference will not be scheduled in this docket.

Thank you,

Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

Docket No. 12-2302-01

Exhibit 9

Kira Slawson


From: Kira Slawson
Sent: Tuesday, September 04, 2012 1:17 PM
To: 'Melanie Reif'; r.delsesto@bingham.com; Justin Jetter; Paul Proctor; Patricia Schmid
Cc: bryan.martin@8x8.com; Eric Orton; Michele Beck; William Duncan; Brock Johansen (Bjohansen@emerytelcom.com)
Subject: RE: In the Matter of Request for Agency Action of Carbon/Emery Telcom, Inc. v. 8 x 8, Inc.

Judge Reif,

We were disappointed to see your email regarding the technical conference. We believe that the issues raised by Mr. Del Sesto below are the precise type of questions that are best addressed in a Technical conference. The customer in Price that Carbon/Emery Telcom, Inc. is referring to is Parkway Dental, Telephone number (435) 472-5556. We would like to better understand 8x8's service and the way calls are routed by 8x8 because we believe 8x8 is providing local service. We believe a technical conference would best serve all parties.

Kira M. Slawson
Blackburn & Stoll, LC
257 East 200 South, Suite 800
Salt Lake City, UT 84111-2048
Phone: (801) 578-3578
Fax: (801) 578-3579

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